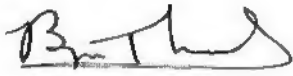


**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

**NOTE:** This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be constructed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Chapter <b>1</b>	Number <b>5</b>	Effective Date <b>08/04/09</b>	Review Date <b>2012</b>
Subject <b>USE OF FORCE</b>		<input type="checkbox"/> New Order	
References <i>CALEA 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.9, 1.3.10, 1.3.11, 1.3.12 and 1.3.13</i> <i>VLEPSC ADM.05.01a, ADM.05.01b, ADM.05.01c, ADM.05.01d, ADM.05.01e, ADM.05.02a, ADM.05.02b, ADM.05.02c, ADM.05.03a and ADM.05.03b</i> <i>Academy Lesson Plan 4.10.2 – 4.10.2.1</i> <i>Tennessee v. Garner, 417 U.S. 1 (1985)</i> <i>G.O. 1-6, 1-7, 1-8, 1-9, 4-9 and 6-22</i>		<input checked="" type="checkbox"/> Replaces <i>G.O. 1-5, (03/15/07)</i> <i>E.O. 08-03 (04/02/08)</i>	
 _____ <b>Chief of Police or Designee</b>		<b>08/04/09</b> _____ <b>Date</b>	

**I. PURPOSE**

The purpose of this directive is to provide sworn officers with basic and legal guidelines on the use of deadly and non-deadly force to protect the life of the officer and the public's safety.

**II. POLICY**

It is the policy of the Richmond Police Department to provide basic guidelines governing the use of force so officers can be confident when exercising judgment as to the use of deadly and non-deadly force. Officers are routinely confronted with situations where force must be used to make an arrest and to protect the public's safety. To minimize the escalation of force by the suspect when an officer is making an arrest, the officer(s) should first attempt to achieve control through verbal commands and/or persuasion, when practical. The use of reasonable force may become necessary in situations which cannot otherwise be controlled. When resistance to police action or a threat to human life is encountered, and reasonable alternatives have been exhausted, reasonable force may be employed. Based upon the circumstances of the situation, only that force which is reasonable and necessary to accomplish lawful objectives, while preventing injury and while protecting the life of the officer *and/or* others, shall be applied. Force used to gain control of a situation will be used with restraint and in proportion to the legitimate objective to be achieved.

### III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this General Order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

### IV. DEFINITIONS

- A. **DEADLY FORCE** – Any use of force that is likely to cause death or serious physical injury; including but not limited to the use of a firearm or a strike to the head with a hard object.
- B. **EXCESSIVE FORCE** – Force is excessive when its application is more than is necessary under the circumstances.
- C. **NON-DEADLY FORCE** – Any use of force that is neither likely nor intended to cause death or serious physical injury.
- D. **REASONABLE BELIEF** – When facts or circumstances the officer knows, or should know, are such as to cause a reasonable or prudent officer to act or think in a similar way under similar circumstances.
- E. **REASONABLY NECESSARY** – Those actions, based upon the known facts or circumstances, which would normally be taken by a reasonable or prudent officer under similar circumstances.
- F. **SERIOUS PHYSICAL INJURY** – Any injury that could result in disfigurement, disability, serious bodily harm or death.
- G. **USE OF FORCE CONTINUUM** – A training model/philosophy that supports the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. The level of response is based upon the situation encountered at the scene and the actions of the subject in response to the member's command. Such response may progress from the member's actual physical presence at the scene to the application of deadly force.
- H. **FORCE INVESTIGATION TEAM (FIT)** – An investigative body under the direction of the commanding officer of the Internal Affairs Division (**IAD**) of the Richmond Police Department whose objective is to provide a standard, comprehensive and neutral investigative response to use of deadly force incidents. The FIT is comprised of detectives from the Cold Case Unit and Forensics of the Major Crimes Division, and Internal Affairs Division and/or others as directed by the Chief of Police.

### V. PROCEDURE

- A. Parameters for the Use of Force:

1. The application of force includes a wide range of alternatives, some requiring the use of either lethal or less *than* lethal weapons. To this end, the Department issues weapons and ammunition that the individual officer may call upon if the occasion arises. The officer's options include mere presence, verbal control, approved compliance techniques, chemical agents and Oleoresin Capsicum, other issued defensive weapons and finally deadly force. These weapons may be employed in response to the threat level recognized by the officer as deemed necessary to protect him or herself or another from physical harm, to restrain or subdue a resistant individual, or bring an unlawful situation safely and effectively under control. Officers shall modify their level of force in relation to the amount of resistance offered by the subject. As the subject offers less resistance, the officer shall lower the amount and/or type of force used. Conversely, if resistance escalates, officers are authorized to respond in kind with those techniques and/or weapons at their disposal to gain control of the subject.
2. All sworn officers who encounter a situation where the possibility of violence or resistance to lawful arrest is present should, if possible, attempt to diffuse the situation through advice, warning and/or verbal persuasion. Officers will approach all situations in a manner consistent with Department policy and training, taking tactically sound positions, making appropriate use of available back-up, using cover effectively and utilizing officer safety training and techniques to minimize the danger to themselves, the community and the need to use force.
3. In the event that a situation escalates beyond the effective use of verbal diffusion techniques, officers are authorized to employ Department-approved compliance techniques, chemical agents (See G.O. 1-8, Oleoresin Capsicum (*O.C.*) *Spray and Fogger*) and other issued defensive weapons (See G.O. 1-7, Police Weapons).
4. All authorized personal defensive weapons shall be used in accordance with procedures detailed in General Orders 1-7 and 1-8 and in the manner prescribed during training. Additionally, no officer shall employ any such weapon prior to *reviewing this order and* successfully completing such Department-approved training courses, as directed by the Virginia Department of Criminal Justice Services.
5. Under no circumstance shall an officer carry or use any unauthorized weapons or ammunition.
6. Except where deadly force is justified, dangerous or potentially deadly techniques such as the following will not be deliberately used to gain control of a suspect:
  - a. Gouges to the eyes.
  - b. Hard strikes to the temple.

- c. Hard strikes to the throat.
  - d. Hard strikes to the spine.
  - e. Upward strikes to the nose.
  - f. Shunting of blood or breath.
  - g. Upward strike or kick to the groin.
  - h. Violent twisting of the head or neck.
7. Officers shall not employ as a means of force flashlights, radios or any other item(s) not issued specifically as defensive weapons as a means of force, except when there is reason to believe that the imminent threat of death or serious physical injury exists and no other *reasonable* option is available.
8. Force will not be used to extract drugs or evidence from a suspect's mouth. Suspects who have ingested drugs or evidence will be provided medical treatment using the guidelines set forth in G.O. 1-6, Search and Seizure.

B. Parameters for the Use of Deadly Force:

1. Deadly force may only be used to:

- a. Protect the officer or others from what is reasonably believed by the officer to be an imminent threat of death or serious physical injury;
- b. Prevent the escape of a fleeing subject when the officer has probable cause to believe the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death;

AND,

Escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.

- c. Dispatch an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured.
2. When feasible, before using a firearm, officers shall identify themselves to the suspect and state their intent to shoot.
3. Warning shots are prohibited.
4. Shooting into a crowd is prohibited.
5. Firing at or from vehicles:
- a. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with

deadly force by means other than the vehicle. For the purposes of this section, the moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an on coming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.

- b. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.
  - c. It is understood that this policy may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. Any officer who deviates from this policy must be able to articulate clearly the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape. This policy exists for the following reasons:
    - (1) Bullets fired at a moving vehicle are unlikely to stop or disable the vehicle.
    - (2) Bullets may ricochet off glass or metal and cause injury to officers or other innocent persons.
    - (3) The vehicle may crash and cause injury to officers or other innocent persons, if the bullets disable the driver.
    - (4) Moving to cover, repositioning and/or waiting for additional responding units to gain and maintain a superior tactical advantage maximizes officer and public safety and minimizes the necessity for using deadly force.
    - (5) Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop or prevent a threat to the officer or other innocent persons.
6. Firearms should not be discharged if it appears that an innocent person may be injured.

C. Additional Restrictions on the Use of Firearms:

- 1. An officer shall only draw or display his/her Department-approved firearm when circumstances cause the officer to reasonably believe that it may be necessary to use the weapon.
- 2. The only weapons authorized for use by an officer are the officer's issued weapon(s) and approved off-duty or secondary firearms, in whose use the officer has been certified and which has been approved for safety by the

*Academy Range Master* or the OIC of the Training Academy, as detailed in General Order 1-7.

D. Departmental Response to *Deadly Use of Force and/or Situations Resulting in Serious Physical Injury*:

1. When a use of force situation results in serious physical injury, death or when a person dies in police custody:
  - a. The involved officer's police powers will be withdrawn or restricted immediately, in accordance with General Order 4-9, Withdrawal or Restriction of Police Powers.
  - b. The Chief of Police will decide on the nature of the officer(s)' assignment and may place the officer(s) in a "non-enforcement" position until such time that, in the judgment of the Chief of Police, the officer(s) is/are able to return to regular duty.
2. In all cases of deadly force, the Department will conduct an administrative and a criminal investigation of the incident(s). The FIT will conduct a purely criminal investigation, which will be forwarded to the Commonwealth's Attorney's office for a criminal review. At the conclusion of the criminal investigation or as determined by the Chief of Police, IAD will conduct an administrative investigation to determine if there are violations of Department policy or procedures.
3. *Any employee who is a witness to and/or involved in the use of deadly force involving department personnel, while on-duty or in the performance of his/her duties, will be mandated to attend a session with one of the Department's behavioral health services providers before returning to work.*

E. *Mandatory Use of Force Training*:

*Department members shall receive Use of Force training at least twice a year as specified by the Police Training Division. The officer's police powers will be withdrawn if the officer fails to complete Use of Force training within the allotted time frame until such time that he/she is able to complete training. The OIC of the Training Division or designee will make arrangements for the affected officer to return to the Training Academy to complete Use of Force training.*

VI. **ROLES AND ACCOUNTABILITY**

A. *In all firearm discharge incidents*:

1. Any officer (while on or off-duty) who discharges either the employee's Department-issued firearm or any firearm while the employee is acting in the performance of official duty, either deliberately or accidentally, shall:



- a. Immediately take all measures to render the situation safe and provide/summon adequate medical assistance for anyone who might be injured;
- b. Notify the Division of Emergency Communications (DEC) of the situation;
- c. Request additional units to assist in protecting the scene and detaining witnesses;
- d. Contact his/her immediate supervisor to respond to the scene. If the immediate supervisor is off-duty, the first available supervisor should be contacted;
- e. Surrender the entire equipment belt including the involved firearm and all magazines and ammunition to the Support Supervisor;
- f. Complete a Firearm Discharge/Firearm Assault Report (PD-10) and, if applicable, a Use of Force Report (PD-35) prior to marking EOT from duty; and,
- g. If the firearm discharge occurred in a location other than the City of Richmond, ensure that notification of the discharge is made to the law enforcement agency of that jurisdiction.

2. First Responding Supervisor *shall*:

- a. Ensure that all officers who were on the scene (not actually involved in the use of force) at the time of the use of force shall be accounted for and held at a secure location to have their firearms, magazines and ammunition inspected by a FIT Forensic Technician;
- b. Confirm that appropriate medical assistance has been summoned/provided, if necessary;
- c. Ensure that DEC has notified the FIT to respond and has made the appropriate notifications to all supervisory personnel;
- d. Ensure that the scene has been protected and witnesses identified, separated and detained;
- e. Coordinate the activities of responding back-up units;
- f. Separate all involved officers and assign a Support Supervisor to each involved officer (when possible, the Support Supervisor shall be at least one rank above the involved officer);
- g. Ensure that a Firearm Discharge/Assault Report Form (PD-10) is completed prior to marking EOT from duty (if the discharge is accidental

and no injury or property damage resulted, the PD-10 Form is the only form that needs to be completed;

- h. Ensure an Incident Based Report (IBR) is completed in those cases where an injury or death occurs;
- i. Complete a Critical Incident Checklist (PD-111) and forward the original through channels to the Chief of Police and one copy to the OIC of FIT/IAD;
- j. Ensure that the provisions of General Order 6-22, Police Damage to Private Property are followed, if applicable; and,
- k. Submit all reports, as required by the Department, through channels, to the Chief of Police, prior to marking EOT from duty.

3. Support Supervisor *shall*:

- a. *Temporarily take possession of involved officer's firearm, magazine, ammunition, etc. and secure items until arrival of FIT Technician;*
- b. Ensure that no one discusses the case with the officer prior to the arrival of the FIT;
- c. Immediately take possession of the involved officer's firearm and all magazines and ammunition, unless they are part of the crime scene. As is always the case, firearms shall be handled with extreme care to ensure safety. Take possession of the entire equipment belt with the weapon holstered and magazine pouches snapped in. If the officer is in plainclothes, take possession of the holster with the firearm inside and the magazine pouches with the magazines inside;
- d. Do nothing to the firearm other than de-cock it if necessary to render it safe and snap it into the holster, if it is not already snapped in. If the officer used the Department's issued shotgun, or any other firearm, take possession of and secure the shotgun or other firearm and all magazines and ammunition unless the firearm and/or magazines and ammunition are part of the crime scene. No one other than the Support Supervisor will handle or take possession of the firearm; and,
- e. Surrender the involved firearm and entire equipment belt to the assigned FIT Forensics investigator and advise the Forensics investigator whether he/she de-cocked the firearm and whether he/she snapped it in the holster.

4. FIT Lead Detective *shall*:

- a. Coordinate evidence collection with the Forensics detective or technician;
- b. Coordinate activities with supervisors to arrange transportation of the involved officers to Police Headquarters for interviews; and,



- c. Issue a Change in Duty Status and/or Status of Police Powers (PD-79) to withdraw or restrict the police powers of the involved officer(s) and place the officer(s) on Administrative Leave when a use of force results in serious physical injury or death.
5. FIT Forensics Technician *shall*:
- a. Take possession of the firearm, magazines and ammunition of the involved officer(s);
  - b. Inspect the firearms, magazines and ammunition of all officers who were on the scene at the time that the use of force occurred;
  - c. Inspect the firearm, magazines and ammunition and count the remaining rounds in the weapon and magazines; and,
  - d. Place the weapon and associated magazines and ammunition in the Police Property Section or retain or forward for analysis as appropriate.
6. FIT Commander *shall*:
- a. Coordinate all activities at the scene and at Headquarters;
  - b. Ensure that all procedures are followed in accordance with the FIT *operating* manual;
  - c. Conduct a criminal investigation of the incident as a discharge of firearm or death investigation; *and*,
  - d. Complete a Critical Incident Checklist (PD-111) if a firearm discharge results in a death or serious injury.
  - e. If a firearm discharge results in a death or serious injury, a Critical Incident Checklist (PD-111) must be completed by the FIT Commander or the IAD Commander in his/*her* absence prior to their EOT.
7. Officers shall immediately notify a supervisor in all situations where a Use of Force Form (PD-35) is required and shall complete the PD-35 prior to the officer's EOT when any type of force is used, other than handcuffing or normal restraint, regardless of whether there is an injury or a complaint of injury. The use of Department-approved compliance techniques that do not involve a strike to the subject (control holds, grounding control techniques, take down techniques, and non-striking distraction techniques) are considered normal restraints and do not require a Use of Force Report, unless (a) there is an injury, appearance of injury or complaint of injury that results from the action; or, (b) a complaint of excessive force is made.
- a. *The* involved officer's supervisor *shall*:

1. Ensure that the involved officer(s) accurately and properly prepares the PD-35;
  2. **Maintain** photographs of any alleged injuries taken at the scene;
  3. Send a draft copy of all photographs and reports to IAD;
  4. Forward the original copy of all reports and photographs, through channels, to the affected Major/Executive Director;
  5. Prepare the PD-35, if the involved officer is unable to fill out the PD-35 due to injury;
  6. Not act as a reviewing supervisor for the PD-35's if they were involved in the same incident; *and*,
  7. Conduct a preliminary or final investigation of the Use of Force and forward the investigation through channels to the Chief of Police. All preliminary investigations are due within 24 hours of incident.
- b. Major/Executive Director *shall*:
1. Review PD-35 reports for accuracy and completeness and distribute as follows:
    - a. The original PD-35 to IAD.
    - b. A copy of the PD-35 to the Chairperson of the Use of Force Review Board.
  2. ***The Major who serves as Chairperson of the Use of Force Review Board shall*** forward a copy of the PD-35, through channels, to the Assistant Chief of Police and the Chief of Police for review and approval of recommendation(s) once the incident is reviewed by the Use of Force Review Board;
  3. Ensure that any approved recommended action is carried out;
  4. Ensure that preliminary reports are forwarded to the Chief of Police within 24 hours; *and*,
  5. ***Have the authority to recommend that an employee be mandated to attend a session with one of the Department's behavioral health services providers before returning to work if an employee is involved in or a witness to a traumatic incident (other than an incident where the employee is a witness to and/or involved in the use of deadly force) while in the performance of his/her duties.***
- c. Chief of Police *shall*:

1. *Determine whether a criminal investigation/review is warranted regarding excessive force complaints; and,*
2. *Instruct IAD to conduct administrative investigations at the conclusion of criminal investigations of deadly force incidents to determine if there are violations of Department policy or procedures.*

**B. All Other Uses of Force:**

1. Whenever any Department-issued less than lethal weapon is used, whether the contact is intentional or unintentional, officers shall complete a PD-35. While not limited to this situation, this requirement must be followed whenever the O.C. Fogger is used to disperse large or unruly crowds (refer to General Order 1-8, Oleoresin Capsicum (O.C.) Spray and Fogger).
2. As a result of the use of force, if *an* arrestee (custodial *or non-custodial*) sustains any visible injury or requires medical attention (even if he/she refuses treatment), the arresting officer or transporting officer shall ensure that the individual is transported to the hospital for treatment, preferably at the Virginia Commonwealth University Medical Center. If the subject receiving the injury or otherwise requiring medical attention is not an arrestee, the officer shall offer to arrange medical treatment and document refusal on the O.C. Spray/Medical Services Rendered Report (PD-35A), if applicable.
3. In incidents where non-deadly force was employed, the Department may either institute an administrative investigation, a criminal investigation or both. If a criminal investigation is conducted, it will be forwarded to the Commonwealth's Attorney's office for a criminal review. At the conclusion of the criminal investigation, or as determined by the Chief of Police, IAD will conduct an administrative investigation to determine if there are violations of Department policy or procedures.
4. *If an employee is involved in or a witness to a traumatic incident (other than an incident where the employee is a witness to and/or involved in the use of deadly force), such as the drowning of a child or a traffic fatality, while on-duty or in the performance of his/her duties, a Commander or civilian equivalent may recommend that the employee be mandated to attend a session with one of the Department's behavioral health services providers before returning to work.*

**C. Allegations of Excessive Force:**

Whenever a complaint of excessive force is made, regardless of whether the officer actually used force, a PD-35 must be completed. If the officer did not use any force in an incident, the officer will fill in the "Other" block in item 6, Type of Force on the PD-35 and explain that no force was used but that the complainant alleged force was used. The PD-35 will serve to document the incident and all the circumstances.

1. Involved Officer's Supervisor, upon observing or receiving any complaint of excessive force, shall:
  - a. Conduct a preliminary investigation;
  - b. Contact IAD during weekday duty hours; and,
  - c. Contact the Night Supervisor during nights and weekends.
2. Night Supervisor *shall*:
  - a. Determine the appropriate level of response and provide guidance to the investigating supervisor;
  - b. Notify the on-call IAD investigator to respond if appropriate; and,
  - c. Ensure that all reports are completed by supervisors prior to marking EOT from duty.
3. IAD Commanding Officer *shall*:
  - a. Review case(s) involving allegations of excessive force *and make a recommendation to the Chief of Police as to whether a criminal investigation/review is warranted*;
  - b. Determine if a firearm discharge results in death or serious injury, in the absence of the FIT Commander and complete the PD-111; and,
  - c. Conduct an administrative investigation to determine if there were any violations of Department policy at the conclusion of the criminal investigation.

D. Administrative Review of Use of Force Incidents:

1. The Use of Force Review Board *shall*:
  - a. Review all use of force incidents to determine whether they were in or out of policy; and,
  - b. Forward "out of policy" incidents to the *Office of Professional Responsibility* and appropriate channels.
2. IAD *shall*:
  - a. Review "Excessive" use of force incidents and determine:
    1. If departmental policies were followed;
    2. If the relevant directive(s) was understandable and germane to the encountered situation; and,

3. If departmental training is currently adequate.
- b. Recommend policy or training changes based upon findings;
- c. Retain all case files, in accordance with state law; *and*,
- d. Produce data and analysis reports on use of force annually or as directed by the Chief of Police.

## VII. FORMS

- A. PD-10, Firearm Discharge/Assault Report Form
- B. PD-35, Use of Force Report
- C. PD-35A, O.C. Spray/Medical Services Rendered Report
- D. PD-41, Damage to Private Property Form
- E. PD-79, Change in Duty Status and/or Status of Police Powers
- F. PD-111, Critical Incident Checklist
- G. Incident Based Report (IBR)